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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EUGENE J. ROLLINS, SAILENDRA PADALA,
and NORBERT HENDRIKSE

Appeal 2007-0286
Application 09/747,656
Technology Center 3600

Oral Hearing Held: November 15, 2007

23Before TERRY J. OWENS, MURRIEL E. CRAWFORD, JENNIFER D.
24BAHR, Administrative Patent Judges

25

JAMES G. GATTO, ESQUIRE
Pillsbury, Winthrop, Shaw, Pittman, LLP
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McLean, VA 22102

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34The above-entitled matter came on for hearing on Thursday, November 15,
352007, commencing at 9:30 am, at The U.S. Patent and Trademark Office,
36600 Dulany Street, Alexandria, Virginia, before Deborah Rinaldo, Notary
37Public.

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PROCEEDINGS

3 MR. GATTO: Good morning. I think the issues here, there is really a
4single issue to decide, and that is whether the Arnold reference discloses an
5intermediary that generates a second Web page that has the navigation
6object.

7 And I have just one or two comments from the specification just to
8clarify certain things, and I'll just point to the part of the rejection that I think
9is just clearly erroneous and then be happy to answer any questions that you
10have.

11 By way of background, at page 4 of the specification, what this
12invention, the problems that it was trying to address relate to in the context
13of a shopping application the inability or difficulty to enable a shopper to
14return to the application if they have gone to a merchant website.

15 And it talks about how there is difficulties in just using the back
16button depending on how the user has navigated through the merchant's site.

17 So really a big part of this is what's referred to as a navigation object
18or a link or a return button that enables you if you go from the shopping site
19to the merchant site to complete a transaction to easily go back to the
20shopping application.

21 At page 5, the applicant addresses that the one way you could do it is
22to modify the merchant website and put some code there. But the applicant
23indicates that that is problematic for a variety of reasons, including the costs
24and the need for each of the merchants to adopt that approach.

25 So instead what the applicant uses what's referred to as an
26intermediary. And the intermediary which is described, for example, at page

114, line 3, clearly says that the intermediary acts between the consumer's
2Web browser and the merchant server.

3 And what that intermediary does that's relevant to the claim issue is
4that it will dynamically create a page that embeds a navigation object so that
5when the consumer is done with the purchase, it can return back to the
6shopping application. That's clearly laid out in pages 14 and 15 and 16 of
7the specification.

8 So if we look at the relevant claim issue, the claim language, it's the
9penultimate clause there that says, Generating by the intermediary an
10updated second electronic document that includes a second object associated
11with the first address.

12 The second object associated with the first address is basically the
13return object or the navigation object as it's sometimes referred to in the
14specification.

15 Now, the examiner relies under 102 on the Arnold reference and
16primarily cites to the bottom of page 7 -- I'm sorry, column 7 continuing to
17the top of column 8 of Arnold to support the allegation that Arnold has an
18intermediary that generates the second page.

19 However, it couldn't be clearer from Arnold if you look at column 7,
20line 62, it says the merchant computer dynamically creates a Web page in
21accordance with the layout and associates the return URL with an icon on
22the Web page.

23 So it's clear from Arnold and the portion of Arnold the examiner is
24relying on that it's the merchant Web page, not an intermediary, that's
25creating the second page, the navigation object.

26 Since this is a 102 rejection and the reference clearly does not meet

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1the claim element, I believe that it's clear that the 102 rejection cannot stand.

2 JUDGE OWENS: What about the examiner's argument that the
3virtual outlet in Arnold modifies the address that this button uses?

4 MR. GATTO: I believe that the examiner's assertion is incorrect.

5The examiner cites to column 7, and what column 7 actually says is that the
6Web -- the claim element at issue, again, states that you are generating by
7the intermediary an updated document. It's not just a Web address,
8whatever. You are generating the document by the intermediary.

9 The document that's generated, the one that's relevant and that the
10examiner refers to in column 7 here is generated by the merchant page.

11 And what it says just slightly above that, it says that there is -- when
12the merchant computer, it may receive a URL, okay, and it accesses a
13database established when the Acme Cyberstore, in this case the virtual
14outlet, creates a relationship with the merchant. That information is stored
15in a database at the merchant's site.

16 So when there is a need for that page, the merchant site creates that
17document. That's what's clearly set forth in column 7.

18 So while there is a URL that may come from the virtual outlet page,
19the URL is not in and of itself a document. And what the claim language
20requires is that you generate the second document that has the return object
21in it.

22 And I think clearly from this language that generation of a document
23is done at the merchant site. And for the reasons set forth in the background,
24the applicant clearly doesn't want to have to have the merchant do that. It
25wants to have an intermediary do it for various efficiency reasons.

26 JUDGE OWENS: Thank you.

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1 MR. GATTO: Thank you very much.

2 (Whereupon, the proceedings at 9:37 a.m. were concluded.)